

Summary
Solid Waste Management Board
Indiana Government South, Conference Center Room A
Public Entrance at 302 West Washington Street, Indianapolis, Indiana
1:30 p.m., EST
November 20, 2012

1. CALL TO ORDER

The meeting was called to order by Mayor William Graham at 1:31 p.m. A quorum was present.

Members present: Mayor William Graham, Rick Dyar, Chuck Himes, Marlin Chambers, Ted Niemiec, M.D., William Etzler, Michael Carnahan, Tom Barnett, Pam Fisher, Tristan Vance, Mike Mettler, Dale Gick, and Deborah Albright, Legal Counsel.

Present for IDEM: Thomas Easterly, Commissioner, Bruce Palin, Assistant Commissioner, Office of Land Quality (OLQ); Peggy Dorsey, Deputy Assistant Commissioner, OLQ; Nancy King, Chief, Rules Development Branch, Office of Legal Counsel (OLC); Ann Long, Attorney, OLC; Dan Watts, OLC; Lynn West, OLC; Ruth Jean, OLQ; and John Naddy, OLQ.

2. APPROVAL OF SUMMARY

Mayor Graham asked if there were any changes or corrections to the meeting summary of the September 18, 2012, meeting. There were no comments; therefore, a motion was made and seconded to adopt the meeting summary.

3. REPORTS

There were no reports.

4. RULE ACTIONS

LSA #09-365, Temporary Storage and Management of Spent Lead Acid Batteries

Mayor Graham announced the public hearing to consider final adoption of LSA #09-365, Amendments to Rules Temporary Storage and Management of Spent Lead Acid Batteries at 329 IAC 3.1. He introduced Exhibit A, the proposed rules, and Exhibit A-1, IDEM's suggested changes, including the addendum to the change sheet, into the record of hearing. He asked Mr. Bruce Palin to present the rule.

Mr. Palin referred to the position paper that was previously mailed to board members. Mr. Palin said IDEM believes that the lead acid batteries received by a reclamation facility are considered a hazardous waste. The batteries are a spent material that is discarded by being sent to a facility to be recycled by reclaiming the components in the battery. He said IDEM agrees that the battery cracking process that melts the lead plates into ingots is exempted from the hazardous waste regulations and are not required to have a hazardous waste permit. Mr. Palin stated that the storage of the lead plates and some of the slags that are created by the facility during the exempted process is one of the main focuses of this rulemaking and the Garrettson decision.

Ms. Ann Long explained that the rule proposed would regulate three main activities: regulation of temporary storage of spent lead acid batteries (intermediate storage); staging of incoming spent lead acid batteries on trailers arriving at the reclamation facility; and regulation of intermittent storage through the containment building standards.

Mr. Etzler, who toured the facility, stated that he was surprised that Quemetco had not provided IDEM with information of their protective environmental design of the building. Mr. Himes had some questions regarding intermittent storage and flow. Mr. Palin and Commissioner Easterly said because of the Garrettson decision temporary storage wasn't regulated. It was done before the containment building requirements passed by EPA. Commissioner Easterly said the alternative to this rulemaking would be to return the program to EPA.

Mayor Graham asked if there were any commenters to speak. The commenters were as follows: Mr. Guinn Doyle of Barnes and Thornburg, on behalf of Quemetco, Incorporated; Mr. Gerry Manley, Quemetco, Incorporated,

Dallas, Texas; Mr. Robert Kelsey, Quemetco, Incorporated, Indianapolis, Indiana; and Mr. Mark Sutton, Exide Technologies, Muncie, Indiana.

Mayor Graham concluded the hearing, and there was no board discussion. Ms. Nancy King provided legal direction regarding the establishment of a future meeting for further discussion. Mr. Barnett made a motion to defer voting until the next Board meeting, which is the next regularly-scheduled meeting, December 18, 2012. Mr. Chambers seconded. By a voice vote, 11 were affirmative, and 1 opposed, to defer voting for final adoption until December 18, 2012.

LSA #12-506, Corrections to the Hazardous Waste Rules, at 329 IAC 3.1-1-7

Mayor Graham announced the public hearing to consider final adoption of LSA #12-506, Corrections to the Hazardous Waste Rules, at 329 IAC 3.1-1-7. He introduced Exhibit B, the proposed rule, into the record of hearing.

Mayor Graham asked Mr. Dan Watts to address the Board. Mr. Watts explained that the purpose of this rulemaking is to correct a citation to the Federal Register in the Indiana Administrative Code, previously, LSA #11-90, Incorporated by Reference Hazardous Waste Rules at 40 CFR 261. He further explained why IDEM used the abbreviated rulemaking process described in Indiana Code 13-14-9-8.

Mr. Barnett asked Mr. Watts if the correction was only to the reference, to which Mr. Watts replied in the affirmative. There was no public commenters Mayor Graham concluded the hearing.

There was no board discussion. Mayor Graham asked for a motion to final adopt the rule. Dr. Niemiec and Mr. Carnahan moved to final adopt the rule, and Mr. Chambers seconded. With a roll call vote, the Board voted unanimously to final adopt the proposed rule.

LSA #12-379, Amendments to the Priority Ranking System for Hazardous Substance Response Sites at 329 IAC 7.1 and Electronic Waste at 329 IAC 16

Mayor Graham announced the public hearing to consider final adoption of LSA #12-379, Amendments to the Priority Ranking System for Hazardous Substance Response Sites at 329 IAC 7.1 and Electronic Waste at 329 IAC 16. He introduced Exhibit C, the proposed rule, into the record of hearing. He asked Ms. Lynn West to present the rule.

Ms. West explained that the purpose of this rulemaking is to make 329 IAC 7.1 and 329 IAC 16 consistent with the statute at IC 13-12-3-2 concerning references to risk-based remediation standards. The rulemaking notice was published under IC 13-14-9-7. Ms. West stated that there would be no fiscal impact on affected parties.

Mayor Graham asked the Board if they had any questions. Mr. Barnett asked if the rulemaking would be changing the remediation standards, to which Ms. West replied that it would be changing the reference. There were no commenters. He concluded the hearing and asked for a motion to final adopt the rule as presented. Mr. Chambers moved to final adopt the rule, and Mr. Barnett seconded. With a roll call vote, the Board voted unanimously to final adopt the proposed rule.

5. OPEN FORUM

There were no public commenters on other issues.

6. ADJOURNMENT

The next meeting is tentatively scheduled for 1:30 p.m. E.S.T. on Tuesday, December 18, 2012, at the Indiana Government Center South Conference Room A. Mayor Graham adjourned the meeting at 2:56 p.m.

CHAIRPERSON

A court reporter recorded this meeting. A typewritten transcript of the entire meeting is on file in the Office of Legal Counsel, Indiana Department of Environmental Management. **To view approved minutes, you may go online to <http://www.in.gov/idem/4709.htm>.**